



2018 CHARTER REVIEW COMMISSION MINUTES

**REGULAR MEETING
JANUARY 22, 2018**

The 2018 Charter Review Commission convened in a regular meeting on Thursday, January 22, 2018, Austin City Hall, 301 W. Second Street, Room 1029, Austin, Texas.

Chair Palvino called the Commission Meeting to order at 6:32 p.m.

Commission Members in Attendance:

Commissioner Authur	Commissioner Borgelt
Commissioner Cotera	Commissioner Hersh
Commissioner Lewis	Commissioner Martinez-Moncada
Commissioner Musselman	Commissioner Palvino
Commissioner Smith	Commissioner Ward
Commissioner Weigand	

Staff in Attendance:

Jannette Goodall, City Clerk's Office
Myrna Rios, City Clerk's Office
Jerikay Gayle, Law Department
Lynn Carter, Law Department

1. CITIZEN COMMUNICATION: GENERAL

There were no citizens who registered to speak.

2. APPROVAL OF MINUTES

Approval of minutes from January 8, 2018 and January 11, 2018 meetings.

The minutes of the January 8, 2018 and January 11, 2018 meeting were approved on Commissioner Borgelt's motion, Commissioner Weigand's second on an 8-0 vote. Commissioner Smith abstained.

3. NEW BUSINESS

The Commission may discuss and take action on the following agenda items:

a) Boards and Commission/City Attorney Work Group Report.

Chair Palvino gave briefed the Commission on the work and recommendations from the Boards and Commission/City Attorney Work Group.

- **City Attorney: The Work Group provided the following five options for consideration (See attached report for details).**
 - **Status quo, no charter revision recommended.**
 - **The City Council appoints the city attorney.**
 - **The city manager selects the city attorney, with council approval.**
 - **The city council appoints the city attorney, on recommendation of the city manager.**
 - **Mayor appoints the city attorney, with council approval.**

The commission agreed that the Work Group should proceed with developing a formal recommendation on option two (city council appoints the city attorney) for consideration by the Commission.

- **Boards and Commission**

Commissioner Martinez-Moncada briefed the Commission on the Work Group's discussion of an independent ethics review commission (See attached report for details).

The Commission recommended that Commissioner Martinez-Moncada work with the Campaign Finance/Ethics Work Group to prepare a formal recommendation for the Commission.

- b) **Discussion of an independent Ethics Review Commission.**

Commissioner Lewis briefed the Commission on the research and recommendations by the Campaign Finance/Ethics Work Group regarding the creation of an independent ethics review commission. (See attached report for details).

The Commission recommended the Work Group present a formal recommendation for consideration at the February 12 meeting.

4. FUTURE AGENDA ITEMS

The Commission may discuss and identify additional meeting dates and future agenda items, topics or presentations.

The Campaign Finance/Ethics Work Group will present a formal recommendation to the Commission on Campaign Voucher Program at the February 5 meeting.

Chair Palvino adjourned the meeting at 7:28 p.m. without objection.

The minutes were approved on this the 29th day of January 2018 on Commissioner Lewis's motion, Commissioner Musselman's second on an 8-0 vote.

Preliminary Report of the City Attorney/Boards & Commissions Committee of the 2018 City of Austin Charter Revision Commission

Summary and Proposed Options:

The City of Austin is an outlier in terms of how its city attorney is appointed. According to the most recent Texas Municipal League survey in 2010, most Texas home-rule cities (73%) authorize their council to appoint the city attorney directly.

In regard to the appointment of Austin's city attorney, the options for the 2018 Charter Revision Commission ("2018 CRC") to consider are:

Option One:	Status quo, with no charter revisions recommended. City attorney continues to be appointed by the city manager with no input from council.
Option Two:	The city council appoints the city attorney
Option Three:	The city manager selects the city attorney, with council approval
Option Four:	The city council appoints the city attorney, on recommendation of the city manager
Option Five:	Mayor appoints the city attorney, with council approval

Introduction: The City Attorney/Boards & Commissions Committee (the "Working Group"), consisting of Matt Hersch, Diego Martinez-Moncada, and Jessica Palvino, was asked to review Item 10.d – "Appointment of the City Attorney by the City Council" – contained in Resolution 20170622-040 and provide recommended options to the 2018 CRC. Our research and findings are presented below.

Charter Provision At-Issue:

The Working Group reviewed potential revisions to Article V, Section 6 of the City of Austin's Charter. Currently, this section reads:

CITY ATTORNEY.

There shall be a department of law, the head of which shall be the city attorney, **who shall be appointed by the city manager**. The city attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five (5) years immediately preceding his or her appointment. The city attorney shall

be the legal advisor of, and attorney for, all of the officers and departments of the city, and he or she shall represent the city in all litigation and legal proceedings. He or she shall draft, approve, or file his or her written legal objections to, every ordinance before it is acted upon by the council, and he or she shall pass upon all documents, contracts and legal instruments in which the city may have an interest.

There shall be such assistant city attorneys as may be authorized by the council, who shall be authorized to act for and on behalf of the city attorney.

Amendment note: Section 6 appears as amended at the election of November 6, 2012.

In particular, the Working Group focused its efforts on whether the city attorney should continue to be appointed by the city manager.

Background:

Proposed revisions to Article V, Section 6, which would have required the city attorney to report to council rather than the city manager, were presented to City of Austin voters in 2012 and failed to pass.

In its February 22, 2012 Report to City Council, the 2012 Charter Revision Committee ("2012 CRC") recommended by a vote of 14-1 that "Council appoints the City Attorney." These recommendations were adopted by the Council and included on the November 2012 ballot as Proposition 6. (See Att. 1, Ordinance No. 20120426-069).

In adopting the 2012 CRC's recommendation, council members expressed concerns about the current structure (which still exists today) under which the city attorney was appointed by the city manager. (See Att. 2, *Proposition 6 would allow Austin City Council to hire, fire City Attorney*, Austin-American Statesman, October 31, 2012).

Proposition 6 failed to pass, with 49.37% voting "Yes" and 50.63% voting "No."

PROP. 6, CITY OF AUSTIN
237 of 237 Precincts Reporting

Yes	73,555	52.13%	44,256	48.16%	17,811	49.37%
No	73,160	49.87%	47,686	51.84%	20,826	50.63%
Total Votes Counted in this Race:	146,715		91,922		238,637	

Survey of Comparable Cities:

The Texas Home Rule Charters, Second Edition (2010) published by the Texas Municipal League reflects that Austin is an outlier in terms of how it selects a city attorney. (See Att. 3, Texas Home Rule Charters - Second Edition (2010) at 66). In most home-rule cities, the city attorney is appointed by the city council (73%). Only six percent (6%) of home-rule cities allow the city manager to select the city attorney without input from the council, which is the selection method currently contained in the City of Austin's Charter. In nine percent (9%) of home-rule cities, the city manager selects the city attorney with council approval. In three

percent (3%) of home-rule cities, the city council appoints the city attorney on the recommendation of the city manager. In seven percent (7%) of home-rule cities, the mayor appoints the city attorney with council approval.

In Houston and El Paso, the mayor appoints the city attorney with the approval of city council. (See Att. 3 at 66) In Dallas, the appointment is by council. (Att. 3 at 66). In Fort Worth, the city attorney is appointed by the city council on recommendation of the city manager. (Att. 3 at 66). In San Antonio, the city manager appoints the attorney and no council confirmation is required. (Att. 3 at 66).

Summary of Argument Supporting Council Appointment of City Attorney:

Proponents of having the city attorney appointed by council argue that this is a key step for accountability. They argue that it is important for council members – who are accountable to the voters – have an attorney representing the city who is accountable to them.

If legal advice goes through the city manager, then there is a risk that the advice is filtered before it reaches council. Many legal questions are so crucial that the city council needs to be sure the attorney's opinion is not "laundered" in any way before it gets to the council.

In connection with Proposition 6, Marcus Norris, former head of the Texas City Attorneys Association, explained the pros and cons of having the city attorney report directly to council. (See Att. 2). He explained that having the attorney report to the council can make more sense in large cities, where being a council member is a full-time job, Norris said. "If a council is actively involved in day-to-day activities at City Hall, they might not want to wait in line and say, 'city manager, can you please have the city attorney take a look at this.'" (See Att. 2).

Proponents also point out that the overwhelming majority of home-rule cities require the city attorney to be appointed directly by council.

Summary of Argument Supporting City Manager Appointment of City Attorney:

On the opposite side, some argue that having both the manager and the attorney report to the city council can be divisive. The city manager and city attorney must often work closely together on difficult issues, so having the manager appoint the attorney can make for better teamwork between the two.

In connection with Proposition 6, former Austin City Attorney Barney Knight opposed the change. (Att. 2) He stated that he opposed the change because city councils in big cities often hire an attorney who is politically well-connected, but "does not understand how intense a specialty municipal law is. Whereas if a city manager picks a city attorney, they tend to concentrate on the breadth and depth of their municipal law experience" (Att. 2).

Marcus Norris explained the cons of having the city attorney report directly to council. (Att. 2). He explained that the city manager and city attorney often must work closely on difficult issues, so having the manager appoint the attorney "can make for better teamwork between the two.

The manager doesn't feel like the attorney is the city council tattletale looking over (the manager's) shoulder." (Att. 2.

Preliminary Report of the City Attorney/Boards & Commission Committee of the 2018 City of Austin Charter Revision Commission

The City of Austin unlike most cities of its size lacks an independent ethics commission with the proper resources and enforcement procedures. A key goal of an ethics commission is to enhance public trust in the ethics enforcement process by assigning it to a quasi-independent entity. The duties of ethics commissions tend to fall into one or more of three categories:

- 1) Overseeing and enforcing local ethics laws and/or codes;
- 2) Providing advice to local officials on ethics and ethics laws; and
- 3) Training local officials on ethics and ethics laws.

The ethics commission of the City of Austin relates to most other cities in the qualifications and restrictions put on its members, how it fills vacancies, and jurisdiction of the commission. The working group decided to focus on the appointment of members, enforcement procedures, and employment of staff; the three areas most different from the ethics commissions of other comparable cities.

Appointment: Currently the ethics review commission consists of 11 members appointed by each council member and the mayor. In other cities comparable to Austin other stakeholders are involved in the appointment process including: board of supervisors, city attorney, district attorney, assessor, controller. We propose looking at including other stakeholders in the appointment process of commissioners to the ethics commission. This will further separate council's influence on the ethics commission.

Enforcement: Besides offering advice regarding local ethics laws and training on such laws the ethics commission should have effective enforcement of ethics laws within its jurisdiction. Several cities in California offer their ethics commissions the power to subpoena records and compel people to testify before the commission. The city of Los Angeles ethics commission can request appointment of a special prosecutor for criminal enforcement if the city attorney is conflicted.

- Council granted subpoena power to the ethics commission in 2017
 - In one of its first uses it was stricken down by council stating the identity of informants in city complaints shall remain confidential and that the commission may subpoena only written information that is available to the public at large via the Public Information Act. <http://www.mystatesman.com/news/local/austin-city-council-shields-whistleblowers-from-ethics-board-subpoenas/UI3PXFLRfGHL61QexLEHMP/>

Staff: As an independent ethics commission there will be a requirement for staff who answer to the ethics commission as opposed to city officials and staff. Below is a table sourced from the Institute for Local Government showing how several California cities with ethics commissions handled staff for their ethics commissions:

Table 4. Ethics Commission Staffing and Resources

	San Francisco Ethics Commission	Los Angeles Ethics Commission	San Diego Ethics Commission	San Jose Elections Commission	Berkeley Fair Campaign Practices Commission	Oakland Ethics Commission
Number of Staff (full-time equivalents)	12	31	6	No staff (city clerk's office provides administrative assistance as needed)	No staff (city clerk's office provides administrative assistance as needed)	20
Annual Budget	\$1,382,441	\$2,600,000	\$1,021,106	No separate budget	No separate budget	\$279,644
Commission & Staff Relations	<p>Commission appoints and may remove the executive director at will</p> <p>Executive director has power to appoint and remove other commission employees</p> <p>City attorney is the commission's legal advisor</p>	<p>Commission appoints and may remove the executive director at will</p> <p>Executive director has power to appoint and remove other commission employees</p> <p>City attorney is the commission's legal advisor; however, commission may employ or contract staff counsel on matters involving the conduct of the city attorney, his or her office, or his or her election campaign</p>	<p>Commission appoints the executive director, subject to confirmation by the city council</p> <p>Executive director serves at the pleasure of the commission</p>	<p>Committee meetings staffed by the office of the city clerk</p> <p>City council has authority to retain an independent and neutral evaluator, selected by the commission, to review and investigate complaints filed with the commission. The city council must appropriate funds for this purpose</p> <p>City attorney provides legal advice but does not participate in investigations or review of complaints</p>	<p>City provides the commission with staff who act in accordance with commission policies and regulations</p>	<p>City manager, or his or her designee(s), provides the commission with staff assistance as necessary to permit the commission to fulfill its functions and duties</p>

PRELIMINARY REPORT OF THE CAMPAIGN FINANCE COMMITTEE OF THE AUSTIN
CHARTER REVISION COMMISSION RECOMMENDING AN INDEPENDENT ETHICS
COMMISSION (1/22/2018)

Executive Summary. Committee Recommendation for an Independent Ethics Commission. We unanimously recommend that Austin follow the lead of major cities that are recognized as having effective ethics enforcement and administration, and that Austin adopt an independent ethics commission. Such a commission would be independent of the Council, City Manager, and City Attorney; it would report to and be overseen by a public board. The board would hire the Executive Director, and the commission's staff would administer and enforce all campaign finance, ethics, conflicts, and lobbyist disclosure laws. In addition, we would recommend requiring provisions in the charter that safeguards the commission's independence by ensuring it receives sufficient resources and staff to do its work properly.

Experts consider the best practice is to establish an independent ethics commission that is professionally staffed and that reports to a public board¹, rather than elected officials or their hires, because of the political nature of the decisions being made. Experts "are concerned about the potential loss of autonomy for ethics agencies that merged with agencies which fall under the authority of those they are intended to regulate." *Comlossy, Ethics Commissions*, p. 9.

We believe effective enforcement and administration are crucial to the effectiveness of any laws, but especially in the areas of campaign finance and ethics. Because of the politicized nature of these issues, we believe ethics commission independence is the key to effective enforcement and implementation. The public's trust in its decision-making is crucial: "Ethics commissions work to ensure voters' trust in policymakers and political institutions through external oversight and transparency...One of the greatest challenges to ethics committees is maintaining their credibility with the public." *Comlossy, Ethics Commissions: Representing the Public Interest* (Center for Ethics in Government; National Conference of State Legislatures 2013), p. 1

Major Issues Involved in An Independent Ethics Commission: We believe Austin's goal should be establishing an effective, trusted ethics agency that has autonomy, expertise and jurisdiction over all ethics related laws: lobbyist disclosure, conflicts of interest, revolving door, ethics and campaign finance laws. We have looked extensively at studies

¹ "An ethics commission is usually an independent body that provides external oversight and enforcement of ethics laws." *Understanding the Role of Ethics Commissions* (Institute for Local Government, December 2007), p. 3. "For an ethics commission to achieve the goal of promoting public confidence in its decision-making processes, it needs fair-minded and diligent members who are concerned with equitably enforcing its adopted ethics laws and requirements." *Id.*, p.5

and at Seattle, Los Angeles, San Francisco, and other major cities' Ethics Commission laws. See Los Angeles City Charter, Section 700; Code of San Francisco, Section 15.100; Seattle City Code, Section 3.70 (three laws are attached).

Here are our preliminary recommendations. We ask for guidance from the Charter Revision Commission, so we can finalize a recommendation to the Commission.

1. Comprehensive Responsibilities for One Agency. Most effective ethics commissions do essentially all tasks in one agency: accept campaign finance and lobbyist filings, recommend policy changes, adopt and implement regulations, issue advisory opinions, inform the public, and enforces the law. See *Comlossy, Ethics Commissions*, p.9; *Understanding the Role of Ethics Commissions* (Institute for Local Government, December 2007), pp. 3-4. See also City of Los Angeles Charter, Section 7.02²; San Francisco Code, Section 1.164; Seattle City Code, Section 3.70.100

In Austin, we currently have four different entities involved in ethics matters: the City Clerk, City Attorney, City Auditor, and Ethics Review Commission. There is no single, dedicated ethics agency. Many of the tasks done by other states' and cities' are not done in Austin: there are no advisory opinions for candidates and political committees, little to no advisory services for candidates and the public, no thorough and proactive policy recommendations, no thorough investigations, no strong enforcement or fines levied, and

² Los Angeles Charter, Section 7.02: "The City Ethics Commission shall have the following duties and responsibilities:

- (a) to receive documents required to be filed pursuant to, and to otherwise administer, the provisions of Section 470 and to conduct audits as otherwise set forth in that section;
- (b) to receive documents required to be filed pursuant to, and to otherwise administer, the provisions of the City's municipal lobbying ordinance;
- (c) to act as the filing officer and to otherwise receive documents in any instance where the City Clerk would otherwise be authorized to do so pursuant to Chapters 4 and 7 of the California Political Reform Act of 1974 (Government Code Section 81000, et seq.), as amended;
- (d) to audit disclosure statements and other relevant documents and investigate alleged violations of state law, the Charter and City ordinances relating to limitations on campaign contributions and expenditures, lobbying, governmental ethics and conflicts of interest and to report the findings to the City Attorney and other appropriate enforcement authorities...
- (e) to provide assistance to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, conflicts of interest and governmental ethics;
- (f) to make recommendations to the Mayor and the Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report to the Council every three years concerning the effectiveness of these laws;
- (g) to maintain a whistle-blower hotline;
- (h) to annually adjust the limitation and disclosure thresholds required by City law to reflect any increases or decreases in the Consumer Price Index. Adjustments shall be rounded off to the nearest hundred dollars for the Limitations on contributions and the nearest thousand dollars for the limitations on expenditures and the matching funds provisions of relevant ordinances;
- (i) to assist departments in developing their conflict of interest codes as required by state law; (j) to advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process..."

no regulations providing more specificity to city ordinances. The tasks that are done in Austin are split among various entities:

- The City Clerk accepts the campaign finance reports, financial statements and lobbyist filings, oversees the campaign e-filing system, and conducts facial compliance on lobbyist filings (to see if all sections are all filled in).
- The City Attorney provides legal advice to the City Clerk and Ethics Review Commission. It does not issue advisory opinions to candidates or give general advice to the public. The City Attorney has taken no ethics or campaign finance enforcement actions in municipal court over the last three years (according to documents recently produced by the City in December response to PIA Request No. 38234), and none that we are aware of over the last 20 years. There have been only 4 minor “sanctions” (2 reprimands, 1 admonition, and 1 notification) by the Ethics Review Commission in the last three years.
- The City Auditor investigates alleged breaches of ethics by council and board members. Austin City Code, Section 2-3-5 (K). Also, as of June 2017, with the implementation of the new lobby reform law, the City Auditor audits at random at least 5% of lobbyist filings per year. Austin City Code, Section 4-8-10. The City Auditor Office’s expertise, however, is more in financial and performance auditing, than in ethics and campaign finance investigations.
- The Ethics Review Commission (ERC) consists of 11 commissioners, one appointed by the mayor and each council member. They have no required expertise in ethics, campaign finance, or enforcement. There are no qualification restrictions on serving as an Ethics Review Commissioner, other than those that apply to every other Austin board: the board member must be an Austin resident and can’t be a lobbyist. There are no ERC board member restrictions on contributing to campaigns, running for office, or working for campaigns.

The ERC hears and makes recommendations on ethics and campaign finance complaints, but prosecution rests with the City Attorney because violations are a Class C misdemeanor (up to a \$500 fine). The ERC has done no thorough or proactive evidentiary investigations, although it has held several final hearings. The Ethics Review Commission members also lack the time or expertise to make proactive policy recommendations, although it has commented on council-initiated proposed ordinances, such as lobbyist disclosure reform, secret money disclosure, and campaign e-filing.

2. Independent Agency. We believe the best approach is establishing an independent ethics agency that answers to an expert public member Board, and not to the City Attorney, City Manager or Council. An Independent Commission’s Board hires the Executive Director, who has a fixed term and can be removed only for cause by the Board. The Board oversees the Executive Director, who executes the laws and investigates and prosecutes wrongdoing. The Commission approves advisory opinions, adopts regulations, makes policy recommendations, and decides enforcement cases. An Independent Ethics

Commission and its staff are answerable first to its Board, but ultimately to the public and courts.

Austin has experience with independent agencies: the City Auditor's Office and the Independent Citizens Redistricting Board (ICRC) ³ were both adopted as charter amendments by voters in the November 2012 election. The ICRC, for example, is an independent, standalone entity whose public members cannot be removed by council and must be funded by council sufficient to accomplish its tasks. Austin City Charter, Article 2, Section 3 (J)(1), (K)(9) The ICRC's members are not appointed by the Council: 8 are selected at random from a qualified, conflict-free pool culled by 3 independent auditors, and then those 8 commissioners select from the remaining qualified pool the 7 other commissioners by supermajority vote. See Austin City Charter, Article 2, Section 3 (I).

3. Terms, Qualifications and Restrictions of Commission members. Other cities (as well as the ICRC) have qualification restrictions such as: 1) board members must be a registered voter in the city; 2) cannot be lobbyists, candidates, contributors, political consultants, party officials, staff, etc. within a period of time before and after their appointment. Like some cities, we would add that they have demonstrated expertise in campaign finance, ethics, conflicts, or enforcement. We also would add a qualification that they must be committed to supporting and enforcing ethics and campaign finance laws. This is because often appointed members to the Federal Elections Commission in Washington oppose the very laws that they are supposed to administer and enforce, destroying the agency's effectiveness and engendering public cynicism.

To ensure independence, Commissioners usually are given fairly long-terms between 3-5 years and their terms are staggered. Most Independent Ethics Commission boards are relatively small for effectiveness: San Francisco's has 5 members, Los Angeles' has 5, Seattle's has 7. (Austin's Ethics Review Commission currently has 11 members). These cities' members are mostly appointed by multiple-elected officials (such as mayor, district attorney, city attorney, tax assessor, auditor, council). Seattle's 7th member is selected by the other commissioners. We are exploring a selection process similar to the ICRC for an independent ethics commission, with a pool of qualified, conflict-free applicants reviewed by auditors, with the commissioners picked at random or by council from that pool.

4. Budget Independence and Sufficiency. It is important that the Commission have the funding to do its job effectively (and not allow the agency to be pressured financially as retribution for taking action, which is all too common across the country). We don't have the Austin budget figures at this time, but the City Clerk has noted for years her lack of resources for her responsibilities. We recommend, like in California, a base budget, plus

³ Austin City Charter, Article II, Section 3 provides that the ICRC hires and fires its own staff and doesn't not answer to the Council or City Manager.

cost of living and work load adjustments, per a formal analysis by the City Auditor.⁴ The City Auditor could establish a commission annual budget amount based on the expenditure totals of good municipal ethics commissions in other cities as well as having sufficient resources to do their specific tasks effectively and promptly. The City Council would be required to fund Commission at this recommended amount. We have a somewhat similar Council requirement for funding the Independent Citizen Redistricting Commission.⁵ Alabama and California's ethics agencies have budgets that are independent of the legislatures that they regulate.

5. Enforcement Process. We recommend that all enforcement personnel (lawyers, investigators, etc.) work for the independent commission and not the City Attorney. This is because the City Attorney works for the City Manager. We recommend that the commission's lawyers work on pro-active audits and evidentiary investigations with investigators. They may prosecute when needed if cases cannot be settle. The Executive Director and staff would have full authority to investigate with subpoena power, right to take witness statements etc. *before* hearings—which is not done now. The Board would hear matters and set fines and reprimands and issue cease and desist orders. Appeal would be to a court of competent jurisdiction.

Conclusion: We look forward to your guidance and feedback on our recommendation that Austin adopt a state of the art independent ethics commission.

⁴ California Code, Title 9, Section 83122 "There is hereby appropriated from the General Fund of the state...the sum of one million dollars (\$1,000,000) in Fiscal Year [1974], adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditures to support the operations of the Commission pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the Commission and other agencies as may be necessary to carry out the provisions of this title."

⁵ Austin City Charter, Article II, Section 3 (K): "the City Council shall appropriate sufficient funds to meet the operational cost of the commission and the cost of any outreach program to solicit broad public participation in the redistricting process." See also "The commission... shall inform the City Council if it determines that funds or other resources provided for the operation of the commission are not adequate. The City Council shall provide adequate funding to defend any action regarding a certified map." Article 2, Section 3 (K)

